REMARKS

I. Disposition Of The Claims

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

Claims 1-20 are pending. Claim 1 is amended as shown. Exemplary support for claim 1, as amended, can be found in the specification at Table 1, page 53, and page 18, lines 16-23, of the Application.

As the foregoing amendments do not introduce new matter into the claims, Applicants kindly request entry of the amendments by the Examiner.

II. Telephone Interview of August 23, 2004

Applicant would like to thank Examiner Saidha for the telephone interview conducted on the morning of August 23, 2004. During this interview, Applicant and Examiner Saidha discussed the status of the claims, proposed amendments to the claims, and proposed groupings of the amended claims.

III. The Restriction Requirement and Applicant's Provisional Election

The Examiner required restriction, under 35 U.S.C. §§ 121, 372, between the following Groups as these inventions or groups of inventions allegedly are not so linked as to form a single general inventive concept under PCT Rule 13.1. Office action, para. 1.

Group I	claims 1-2, 15 and 19, drawn to a polypeptide (Phospholipase) of SEQ ID NO: 1 or 3, composition comprising the polypeptide and a method of treatment using the polypeptide.

Group II	claims 3-6 and 9-14, drawn to a polynucleotide of SEQ ID NO: 4 or 5 encoding the polypeptides or phospholipase of SEQ ID NO: 1 or 3.
Group III	claims 7-8, drawn to a method of detecting a polynucleotide capable of hybridization to the compliment of SEQ ID NO: 4 or 5.
Group IV	claim 16, drawn to antibody to the polypeptide of SEQ ID NO: 1 or 3.
Group V	claims 17-18 and 20, drawn to agonist or antagonist and method of treatment using the antagonist.

In response, Applicants hereby elect, **with traverse**, Group II, claims 3-6 and 9-14, drawn to a polynucleotide of SEQ ID NO: 4 or 5. In view of the amended claims, Applicants propose grouping the claims as follows.

Group I	claims 1-2, 15 and 19, drawn to a polypeptide (Phospholipase) of SEQ ID NO: 1 or **2**, composition comprising the polypeptide and a method of treatment using the polypeptide.
Group II	claims 3-6 and 9-14, drawn to a polynucleotide of SEQ ID NO: 4 or 5 encoding the polypeptides or phospholipase of SEQ ID NO: 1 or **2**.
Group III	claims 7-8, drawn to a method of detecting a polynucleotide capable of hybridization to the compliment of SEQ ID NO: 4 or 5.
Group IV	claim 16, drawn to antibody to the polypeptide of SEQ ID NO: 1 or **2**.
Group V	claims 17-18 and 20, drawn to agonist or antagonist and method of treatment using the antagonist.

Applicants respectfully request this grouping in order to expedite prosecution of corresponding polypeptide and polynucleotide sequence listings.

IV. The Polypeptides Of Group I Are A Contribution Over Sigma (1993), Item Catalog No. G6887

The Examiner reasoned that, under PCT Rule 13.2, the polypeptides of claim 1 do not share a corresponding technical feature which is a contribution over the prior art. Office action, para. 2. The Examiner noted that claim 1 recites "SEQ ID NO: 1 or 3 and fragments thereof." Id. According to the Examiner, this language "will therefore read on di or tri-

peptides." Id. The Examiner stated that Sigma (1993), Item Catalog No. G6887 ("Sigma G6887"), was a tri-peptide corresponding to residues 51-53 of SEQ ID NO:1. Id. Accordingly, the Examiner concluded that the polypeptides of claim 1 do not share corresponding technical feature which is a contribution over the Sigma G6887 under PCT Rule 13.2. Id. Applicants respectfully traverse this reasoning.

The specification expressly teaches the meaning of the term "fragment." See page 9, line 40 to page 10, line 5, of the Application. For example, the specification teaches that a "fragment used as a probe, primer, antigen, therapeutic molecule, or for other purposes, may be at least 5, 10, 15, 20, 25, 30, 40, 50, 60, 75, 100, 150, 250, or at least 500 contiguous nucleotides or amino acid residues in length." Page 10, line 3-5, of the Application. As such, the tri-peptide of Sigma G6887 does not correspond to a fragment of SEQ ID NO:1. Accordingly, the polypeptides of claim 1 are a contribution over the cited reference and may be properly treated as a corresponding special technical features.

V. The Polypeptides Of Group I And The Polynucleotides Of Group II Exhibit Corresponding Special Technical Features

Applicants traverse the restriction requirement because the unity of invention standard must be applied in national stage applications. Section 1850 of the Manual of Patent Examining Procedure (original 8th edition, published August, 2001) (hereinafter "MPEP") provides that

> when the Office considers international applications . . . during the national stage as a Designated or Elected Office under 35 U.S.C. 371, PCT Rule 13.1 and 13.2 will be followed when considering unity of invention of claims of different categories without regard to the practice in national applications filed under 35 U.S.C. 111 . . . .
>
> . . .
>
> In applying PCT Rule 13.2 to . . . national stage applications under 35 U.S.C. 371, examiners should consider for unity of

> invention all the claims to different categories of invention in the application and permit retention in the same application for searching and/or preliminary examination, claims to the categories which meet the requirements of PCT Rule 13.2 . . . .

MPEP at page 1800-60 to -61.

MPEP section 1893.03(d) reiterates the Examiner's obligation to apply the Unity of Invention standard PCT Rule 13.2 instead of U.S. restriction/election of species practice:

> Examiners are reminded that unity of invention (not restriction) practice is applicable . . . in national stage (filed under 35 U.S.C. 371) applications.

Id. at page 1800-149, col. 1.

Indeed, according to Example 17, Part 2 of Annex B to the PCT Administrative Instructions, the Examiner is obliged to find that "the protein and the DNA sequence exhibit corresponding special technical features" and that, therefore, there is no lack of unity between claims directed to a protein "X" and the DNA sequence that encodes protein "X."

Thus, in the present case, unity of invention does exist at least as between claims 1-2 and 15-19 of Group I, drawn to a polypeptide (Phospholipase) of SEQ ID NO: 1 or 2, and claims 3-6 and 9-14 of Group II, drawn to the polynucleotides of SEQ ID NO: 4 or 5. As these groups exhibit corresponding special technical features, Applicants respectfully request that the Examiner withdraw the Restriction Requirement at least as to claims 1-6 and 9-19 of Groups I and II, and examine those claims in a single application.

VI. Conclusion

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 19-0741. If a fee is required for an extension of time under

37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should be charged to our Deposit Account.

Respectfully submitted,

Date August 25, 2004

By _____
Robert M. Norway
Attorney for Applicant
Registration No. 54,608

FOLEY & LARDNER LLP
Customer Number: 22428
Washington Harbour
3000 K Street, N.W., Suite 500
Washington, D.C. 20007-5143
Telephone: (202) 295-4024
Facsimile: (202) 672-5399